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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 ROYAL PRINTEX, INC., a California
15 Corporation,
16 Plaintiff,
17 v.
18 SKIVA INTERNATIONAL, INC., a
19 New York Corporation; RAINBOW
20 USA, INC., a New York Corporation;
21 ROSS STORES, INC., a Delaware
22 Corporation, individually, and doing
23 business as “DD’S DISCOUNTS”;
24 NATIONAL STORES, INC., a
25 California corporation, individually and
Defendants.

Case No.:

PLAINTIFF’S COMPLAINT FOR:
1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

1 Plaintiff ROYAL PRINTEX, INC., by and through its undersigned attorneys,
2 hereby prays to this honorable Court for relief as follows:

3 **JURISDICTION AND VENUE**

4 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
5 *et seq.*

6 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
7 1338 (a) and (b).

8 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
9 1400(a) in that this is the judicial district in which a substantial part of the acts and
10 omissions giving rise to the claims occurred.

11 **PARTIES**

12 1. Plaintiff, ROYAL PRINTEX, INC (“ROYAL PRINTEX”) is a corporation
13 organized and existing under the laws of the state of California with its principal
14 place of business located in the Los Angeles County.

15 2. Plaintiff is informed and believes and thereon alleges that Defendant
16 SKIVA INTERNATIONAL, INC. (“SKIVA”), is a corporation organized and
17 existing under the laws of the state of New York, and is doing business in and with
18 the state of California.

19 3. Plaintiff is informed and believes and thereon alleges that Defendant
20 RAINBOW USA, INC. (“RAINBOW”) is a corporation organized and existing under
21 the laws of the state of New York, and is doing business in and with the state of
22 California

23 4. Plaintiff is informed and believes and thereon alleges that Defendant ROSS
24 STORES, INC., individually and doing business as “DD’S DISCOUNTS”
25 (collectively “ROSS”), is a corporation organized and existing under the laws of the
26 state of Delaware, and is doing business in and with the state of California.

5. Plaintiff is informed and believes and thereon alleges that Defendant NATIONAL STORES, INC., individually, and doing business as “FALLAS PAREDES” (collectively “NATIONAL”) is a corporation organized and existing under the laws of the state of California, and is doing business in and with the state of California.

6. Defendants DOES 1 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when same have been ascertained.

7. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and adopted, or both, each and all of the acts or conduct alleged, with full knowledge of all the facts and circumstances, including, but not limited to, full knowledge of each and every violation of Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

CLAIM RELATED TO DESIGN R21632

8. Prior to the conduct complained of herein, Plaintiff composed an original two-dimensional artwork for purposes of textile printing, which is set forth hereinbelow. Plaintiff allocated this artwork with internal design numbers R21088 (the “Subject Design”). This artwork, and the source artwork from which the Subject

1 Design was created, are, and at all relevant times were, owned exclusively by
2 Plaintiff.

3 9. Plaintiff applied for a United States Copyright Registration for the Subject
4 Design.

5 10. A true and correct image of the Subject Design is provided below:



11. Prior to the acts complained of herein, Plaintiff sampled and sold fabric bearing Subject Design to numerous parties in the fashion and apparel industries.

12. Plaintiff is informed and believes and thereon alleges that, following this distribution of fabric bearing the Subject Designs, SKIVA, RAINBOW, ROSS, NATIONAL, and certain DOE Defendants created, sold, manufactured, caused to be manufactured, imported and distributed fabric and/or garments comprised of fabric bearing an unauthorized reproduction of Subject Design (“Subject Product”). Such Subject Product includes but is not limited to the following:

a. Garments sold by RAINBOW under SKU 0021381306, garments sold by ROSS under SKU 400121373463, and garments sold by NATIONAL under Style No. 85372. All such garments bore labels indicating said garments were manufactured by, caused to be manufactured by, or supplied by SKIVA. A non-exclusive exemplar of each above-referenced Subject Product is set forth below:

RAINBOW Subject Product



ROSS Subject Product



NATIONAL Subject Product



13. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed copyright infringement with actual or constructive knowledge of Plaintiff's rights and/or in blatant disregard for Plaintiff's rights, such that said acts of copyright infringement were, and continue to be, willful, intentional and malicious, subjecting Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement.

14. A comparison of the Subject Designs and the above non-exclusive exemplars of Subject Product above makes apparent that the elements, composition, colors, arrangement, layout, and appearance of the designs at issue are substantially similar.

FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

1. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

2. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) garments manufactured and sold to the public bearing fabric lawfully printed with the Subject Design by Plaintiff for its customers.

3. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is further informed and believes and thereon alleges that said Defendant(s) has an

1 ongoing business relationship with Defendant retailers, and each of them, and
2 supplied garments to said retailer, which garments infringed the Subject Design in
3 that said garments were composed of fabric which featured unauthorized print
4 design(s) that were identical or substantially similar to the Subject Design, or were
5 an illegal derivation or modification thereof.

6 4. Plaintiff is informed and believes and thereon alleges that Defendants, and
7 each of them, infringed Plaintiff's copyright by creating, making, and/or developing
8 directly infringing and/or derivative works from the Subject Design and by
9 producing, distributing and/or selling garments which infringe the Subject Design
10 through a nationwide network of retail stores, catalogues, and through on-line
11 websites.

12 5. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
13 damages to its business in an amount to be established at trial.

14 6. Due to Defendants' acts of infringement, Plaintiff has suffered general and
15 special damages in an amount to be established at trial.

16 7. Due to Defendants' acts of copyright infringement as alleged herein,
17 Defendants, and each of them, have obtained direct and indirect profits they would
18 not otherwise have realized but for their infringement of the Subject Design. As
19 such, Plaintiff is entitled to disgorgement of Defendants' profits directly and
20 indirectly attributable to Defendants' infringement of the Subject Design in an
21 amount to be established at trial.

22 8. Plaintiff is informed and believes and thereon alleges that Defendants, and
23 each of them, have committed acts of copyright infringement, as alleged above,
24 which were willful, intentional and malicious, which further subjects Defendants,
25 and each of them, to liability for statutory damages under Section 504(c)(2) of the
26 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
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1 infringement. Within the time permitted by law, Plaintiff will make its election
2 between actual damages and statutory damages.

3 **SECOND CLAIM FOR RELIEF**

4 (For Vicarious and/or Contributory Copyright Infringement - Against All
5 Defendants)

6 9. Plaintiff repeats, realleges, and incorporates herein by reference as though
7 fully set forth, the allegations contained in the preceding paragraphs of this
8 Complaint.

9 10. Plaintiff is informed and believes and thereon alleges that Defendants
10 knowingly induced, participated in, aided and abetted in and profited from the illegal
11 reproduction and/or subsequent sales of garments featuring the Subject Design as
12 alleged herein.

13 11. Plaintiff is informed and believes and thereon alleges that Defendants, and
14 each of them, are vicariously liable for the infringement alleged herein because they
15 had the right and ability to supervise the infringing conduct and because they had a
16 direct financial interest in the infringing conduct.

17 12. By reason of the Defendants', and each of their, acts of contributory and
18 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
19 suffer substantial damages to its business in an amount to be established at trial, as
20 well as additional general and special damages in an amount to be established at
21 trial.

22 13. Due to Defendants', and each of their, acts of copyright infringement as
23 alleged herein, Defendants, and each of them, have obtained direct and indirect
24 profits they would not otherwise have realized but for their infringement of the
25 Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
26 directly and indirectly attributable to Defendants' infringement of the Subject
27 Design, in an amount to be established at trial.

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement. Within the time permitted by law, Plaintiff will make its election between actual damages and statutory damages.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

Against All Defendants

15. With Respect to Each Claim for Relief

- a. That Defendants, each of them, and their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Design;
- b. That Defendants, and each of them, account to Plaintiff for their profits and any damages sustained by Plaintiff arising from the foregoing acts of infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. § 101 et seq.;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

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1 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
2 38 and the 7th Amendment to the United States Constitution.

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4 Respectfully submitted,

5 Dated: May 24, 2017

6 By: /s/ Scott Alan Burroughs
7 Scott Alan Burroughs, Esq.
8 Trevor W. Barrett, Esq.
9 DONIGER / BURROUGHS
Attorneys for Plaintiff
ROYAL PRINTEX, INC.

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